

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	
-vs-	:	05-0749
	:	
Peoples Gas Light and Coke Company	:	
	:	
	:	
Reconciliation of revenues collected under	:	
gas adjustment charges with actual costs	:	
prudently incurred.	:	

**REPLY BRIEF OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission’s Rules of Practice (83 Ill. Adm. Code 200.800), respectfully submits this Reply Brief in the instant proceeding. On July 12, 2007, Initial Briefs were filed by The Peoples Gas Light and Coke Company (“Peoples” or the “Company”); the City of Chicago and the Citizens Utility Board; the People of the State of Illinois; and Staff. Staff replies herein to the Initial Brief (“IB”) filed by Peoples.

I. BANKED GAS RECONCILIATION ADJUSTMENT

Staff and Peoples agree on nearly all facts concerning Peoples’ reconciling adjustment to the liability for the redelivery of gas to transportation

customers' gas bank accounts (i.e., banked gas) made in May of 2005.¹ While the accounting for and the procedures surrounding banked gas may be confusing and complex at times, for purposes of resolving this issue in the context of the instant reconciliation proceeding, Staff agrees that the issue to be resolved by the Commission is summarized on page 4 of Peoples' IB, wherein the Company states, in part:

The fact that the correction was **necessitated by a flaw in Peoples Gas' procedure** is not relevant to the recoverability and prudence of the costs. The fact that the error likely **existed prior to the reconciliation year and that the prior reconciliation years are the subject of final Commission orders** is not relevant to the recoverability and prudence of the costs. (Emphasis added.)

Peoples' conclusions as to the relevance of the uncontested facts are the crux of the dispute. Staff's position is that these facts are not only relevant, but key, to determining the prudence and recoverability of the costs. Staff cannot resolve how Peoples' own improper actions, and the fact the costs relate to multiple prior periods of unknown amounts, are considered "not relevant" by Peoples.

The one and only factual issue in dispute is whether or not Peoples accurately computed the correction. Peoples relies on its subsidiary customer billing ledger and checks "in the form of" its transportation customers. (Peoples IB, p. 18.) Staff maintains the Company's sole reliance on the customer billing system is misplaced. The Company did not reconcile any customer bills from the customer billing system to the general ledger system to confirm that the C-First records should be used instead of the SAP records. Instead, Peoples based its

¹ Staff does not agree that Peoples has shown its adjustment to be accurate, as discussed below.

decision to dismiss the general ledger data on the fact that it had “controls” in the customer system.² The Company stated it attempted to reconcile the gas bank account volumes from the entire customer billing records, for those that have banked gas, to the entire gas bank account volumes reflected in the general ledger. (ICC Staff Exhibit 4.0, p. 5.)

The workpapers indicate otherwise. (Id., Attachment A, p. 4.) The Company simply compared the total volumes per its billing records with the volumes reflected in the general ledger. The difference in these volumes was multiplied by the September LIFO rate to calculate the Company’s adjustment.

A more appropriate reconciliation would begin with the volumes in one system and then have one or more adjustments to reconcile to the volume stated in the other system. The Company’s version of a reconciliation relied solely on the C-First balances, merely adjusting its general ledger records to agree with its customer billing records without verifying the cause of the differences. This insufficient audit procedure does not prove that the subsidiary ledger (i.e., customer billing or “C-First” system) is more reliable than the general ledger data. (ICC Staff Exhibit 4.0, p. 6.)

Peoples’ second check, and therefore, evidence that its correction was accurate, is “in the form of” its transportation customers and their suppliers. Peoples states that, “[i]f the bills were wrong, the transportation customer or its supplier would raise this with Peoples Gas.” (Peoples IB, pp. 18-19.) Peoples attempts to shift the burden to Staff to prove that its bills, which relied upon the

² See ICC Staff Exhibit 1.0, pp. 9-10, lines 187-209; the Sarbanes-Oxley audit team determined that the controls surrounding the banked gas procedures in FY 2005 were deficient.

customer billing data, were inaccurate. (Id., p. 19.) The magnitude of the error over a number of years, combined with the insufficient reliance on its “controls” and “reconciliation” described above, is sufficient evidence to question its accuracy. It is Peoples that has not provided the evidence to support its position.

II. PRIOR PERIOD ADJUSTMENT

Here again, Staff and Peoples agree on the background facts of the adjustment. However, Peoples does not agree that it is bound by either: 1) prior Commission Orders, or 2) its Settlement Agreement which closed the FY 2004 reconciliation year without analysis of its costs and revenues. Staff maintains that Peoples is bound by both prior Commission Orders and its Settlement Agreement in Docket No. 04-0683.

Staff challenges the appropriateness of the Company’s comparison of the prior period adjustment in the instant proceeding to pipeline refunds. (Peoples IB, p. 20.) 83 Ill. Adm. Code 525, Purchased Gas Adjustment Clause (“Part 525”) specifically provides for pipeline refunds to be accounted for in the PGA Adjustment Factor (Factor A). (See 83 Ill. Adm. Code 525.50(a).) This provision is necessary due to the lag of such refunds. Part 525 does not provide for one-time error adjustments such as the Company made in FY 2005 for FY 2004 costs. There is no basis whatsoever upon which the Commission should accept this one FY 2004 adjustment in isolation, especially in the context of the closed Docket No. 04-0683 and the Settlement Agreement voluntarily entered into therein.

III. MANAGEMENT AUDIT

In the Commission's Final Order in Docket No. 01-0707 (Peoples' 2001 – 2004 PGA proceedings), the Company was ordered to engage outside consultants to perform a management audit of its gas purchasing practices, gas storage operations, and storage activities. Accordingly, Staff recommended that the Commission's Final Order in the instant proceeding contain corresponding Finding and Ordering Paragraphs, which provide that the instant proceeding is subject to reopening pending the outcome of the Company's management audit (Docket No. 06-0556). (Staff IB, pp. 14-15.)

Peoples argues that the Commission's Rules of Practice, i.e., 83 Ill. Adm. Code 200.900, will control whether or not this docket will be reopened in the future, rather than speculation. (Peoples IB, pp. 25-26.) Staff agrees that Section 200.900 is authoritative as to when, how, and if this docket will be reopened in the future. However, Staff would be remiss if it did not present for the record information regarding the ongoing management audit, which is directly relevant to the issues in the instant proceeding. As such, Staff's testimony and recommendation regarding including corresponding Finding and Ordering Paragraphs addressing reopening is appropriate and should be approved by the Commission.

IV. CONCLUSION

For the foregoing reasons, Staff respectfully requests that the Commission reject the arguments set forth in Peoples' IB and adopt Staff's recommendation to adjust Peoples' 2005 PGA reconciliation by the amount of \$20,542,609.26, via

the Commodity Gas Charge (CGC) through an Ordered Reconciliation Factor (Factor O), as indicated on ICC Staff Exhibit 4.0, Schedule 4.1, to be reflected on the Company's first monthly PGA filing after entry of the Final Order in this proceeding. Staff also respectfully requests that the Commission include Staff's recommendations set forth in its Initial Brief regarding Peoples' gas purchasing practices and the possibility of reopening this docket based on the outcome of the management audit being performed in Docket No. 06-0556 in its Findings and Ordering Paragraphs in the Final Order in the instant proceeding.

Respectfully submitted,

A handwritten signature in black ink that reads "Linda M. Buell". The signature is written in a cursive, flowing style.

LINDA M. BUELL

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Commerce Commission

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